

What is the goal the FCC is working to accomplish right now with regards to Digital Television? The answer is to shift the 85% of the marketplace to DTV so analog transmission can be abandoned and the frequencies can be reappropriated for other uses. The best way to do this of course is to make DTV more attractive to consumers. So as a consumer, I must ask "Why isn't the FCC doing this?".

The MPAA has lobbied for a federally mandated broadcast flag in all DTV equipment otherwise Hollywood won't release movies on DTV. Is that a problem? The answer is a resounding no. Why?

There already is exciting and provocative HDTV content being provided TODAY without any broadcast flag or similar restrictive technology. Such examples are HDnet which covered the 2002 Winter Olympics in hi-definition, Discovery HD Theater as well as much lauded popular network shows such as "Law and Order". Even traditional movie channels such as HBO now offer a wealth of original programming instead of just Hollywood movies. And some of it is available in HD such as the wildly successful Sopranos. If major networks are already providing HD content and that amount is growing, then having Hollywood's movies on DTV isn't necessary to encourage DTV growth because it's already growing quite nicely, especially considering the infancy of the technology. To quote the adage: "Don't fix it if it's not broke".

If Hollywood doesn't want to utilize DTV, fine! Would it be nice? Yes, but it isn't something I want to give my fair use rights away for. Why? First, movie theaters. Second, DVDs and VHS tapes. Consumers have other options for seeing movies than DTV and in fact they're all arguably better for watching movies. Movie theaters provide a huge screen and a huge sound that practically no home system can come close to matching. On the other hand, DVDs/tapes can be paused during playback, replayed, etc. One might argue that a VCR or a TiVo adds these abilities to television, but if a broadcast flag is mandated, then there is no guarantee that a consumer can record a particular show at all.

A key issue to addressing whether a broadcast flag should be implemented is: How can mandating a restrictive technology and legislation, which limits consumer's rights, be helpful to this growing industry?

For one, the broadcast flag will take away the consumer's ability to record any show that s/he desires and watch whenever. Time-shifting is taken for granted by most consumer's with a VCR. How can limiting the evolution of television and digital recorders help promote sales of such technology? It can't. Consumers expect more for their dollar, not less.

Imagine you are buying a new DTV-capable VCR and you ask the salesperson "Can I record my favorite show?". The short answer is "Maybe". Not exactly a ringing endorsement to buy the product. The long answer is a lengthy dissertation about how the broadcast flag prevents piracy at the expense of crippling this new fangled digital VCR. But as a consumer, I don't want to hear why the product doesn't work as well as my old VCR, I just don't want to buy it. Do you?

Implementing the broadcast flag will even not prevent piracy. The copy protection needs to be broken by only one person for the "protected" content to be made available through unauthorized channels. This can be done through various methods and in fact every copy-protection released so far has been cracked such as the famous DVD CSS technology. The broadcast flag too is susceptible to such attacks and therefore does not accomplish what it's proponents, the MPAA, claims it does. Instead it restricts my time-honored fair use rights in how I can use the media and associated equipment which I purchase.

While I firmly believe in supporting content producers that make products I enjoy, as an American and a human being, I don't appreciate being prejudged as a criminal.

I ask the FCC to not set a mandate for a broadcast flag for DTV equipment. I ask this for the benefit of all consumers that will be stripped of fair use rights and will be charged more to support an ineffectual mandated copyright mechanism that is being pushed by only a sliver of the potential content producers, the MPAA studios. Hollywood should take a cue from it's entertainment competitors such as HBO, NBC, HDnet, et al. that are already offering compelling HD-programming today all WITHOUT a broadcast flag.

Sincerely,  
Tim Mitchell